



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 135-60 – Common Interest Community Management Information Fund Regulations

Department of Professional and Occupational Regulation

January 11, 2007

Summary of the Proposed Regulation

The Real Estate Board proposes to increase fees that common interest communities (property owners' associations, real estate cooperative associations and condominium associations) pay into the Common Interest Community Management Fund. The board proposes, at the same time, to institute a seven-tier graduated fee structure so that common interest communities with greater numbers of lots will pay higher fees.

Result of Analysis

There is insufficient data to weigh the magnitude of costs versus benefits for this proposed regulation. Costs and benefits are discussed below.

Estimated Economic Impact

In the Code of Virginia, the Property Owners' Association Act, the Real Estate Cooperative Act and the Condominium Act contain identical requirements that the respective governed common interest community (CIC) associations submit an annual report to the Real Estate Board (board). At the same time, these associations are required to register and pay a fee to the state treasurer which is credited to the Common Interest Community Management Information Fund; this fund is used to pay a community association liaison and to "promote the improvement and more efficient operation of common interest communities through research and education".

Currently, the board charges all registrants \$25 per year. Fees collected from registrants have, in part, funded the salaries of the community liaison as well as support staff. Fees have also been used, in part, to produce educational pamphlets that detail financial disclosure/home resale

laws, fund websites that gather web resources for CIC homeowners/home buyers and produce written guidelines that detail:

- The statutory rights and responsibilities of CIC associations' Boards of Directors,
- Avenues of conflict resolution,
- The statutory rights and responsibilities of home owners and
- Rules for financial reporting.

Although all CIC associations are statutorily required to file annual reports with the board and pay a registration fee, the community association liaison reports that a relatively small percentage (15-25%) of these associations have actually registered. As illustration of this compliance challenge, fewer than 4,000 CIC associations are registered with, and submit required annual reports to, the board even though there are an estimated¹ 24,000 CIC associations within the Commonwealth. The liaison reports that low compliance rates are an artifact of education; many CIC associations are unaware of their statutory duties. Registration compliance is particularly an issue with CICs which were built before there was a statutory reporting and registration requirement; there is likely also a (smaller scale) problem getting newly formed CIC associations registered. Localities do not keep records of new CIC building permits. Localities would likely not even know whether buildings for which permits are issued are destined to be part of a community that will have a statutory registration requirement.

In order to fund more education for current registrants and to attempt to identify and educate CIC associations that are not registered but should be, the board proposes to create a new, tiered, fee schedule (see table). Proposed fees will be slightly higher (in each tier) the first time a CIC association registers than when that association renews their registration.

Number of Lots	Initial Application Fee	Annual Renewal Fee
1-50	\$45	\$30
51-100	\$65	\$50
101-200	\$100	\$80

¹ Common Interest Community Management information Fund monies were used to fund research by Old Dominion University (ODU) which sought to identify common interest community issues.

201-500	\$135	\$115
501-1000	\$145	\$130
1001-5000	\$165	\$150
>5000	\$180	\$170

The board proposes a graduated fee structure because larger associations use proportionally more fund resources. Larger associations will, for instance, obtain and distribute more pamphlets than will smaller associations. Although this proposed fee schedule imposes fees that will be as much as seven times greater than current fees, per lot fees for all but the smallest of CIC communities are extremely small (per lot fees in the second fee tier would not exceed \$1.28; per lot fees in the seventh tier would be less than one cent per year). The cost per lot in the lowest tier will depend on how close to the upper bounds of the tier is the number of lots. The greater the number of lots, the smaller the cost per lot will be. The number of currently registered CIC associations that fall into each fee tier is:

Number of Lots	Number of Registered Entities
1-50	1557
51-100	875
101-200	750
201-500	465
501-1000	115
1001-5000	80
>5000	7

The board also has 120 CIC associations registered for which they have no lot number information. Homeowners may benefit from these fee increases if the education efforts that they fund lead to more efficient management practices on the part of CIC Boards of Directors and

professional managers or if funded activities can bring more CIC association into compliance with the Code of Virginia.

Businesses and Entities Affected

Homeowners that live in common interest communities and CIC associations will be affected by this proposed regulation. Currently, around 4000 CIC associations are registered with the board.

Localities Particularly Affected

All localities in the Commonwealth will be affected by this proposed regulation.

Projected Impact on Employment

Proposed fee increases may, in part be used to fund extra staff to support the educational efforts of the community association liaison.

Effects on the Use and Value of Private Property

Proposed fee increases will be, in most cases, extremely minimal for each home owner and are unlikely to affect the use and value of homeowners' property in any appreciable way.

Small Businesses: Costs and Other Effects

This proposed regulation will not affect any small businesses in the Commonwealth.

Small Businesses: Alternative Method that Minimizes Adverse Impact

This proposed regulation will not affect any small businesses in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed

regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.